

COMBINED DECLARATION
AND POWER OF ATTORNEY

(Original, Design, National Stage of PCT, Divisional, Continuation or C-I-P Application)

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name; I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

This declaration is of the following type:

- ☐ original
- ☐ design
- ☒ national stage of PCT.
- ☐ divisional
- ☐ continuation
- ☐ continuation-in-part (C-I-P)

the specification of which: *(complete (a), (b), or (c))*

- a) ☐ is attached hereto.
- b) ☒ was filed on as Application Serial No. ^{09/762,824} and was amended on *(if applicable)*.
- c) ☐ was described and claimed in PCT International Application No. filed on and was amended on *(if applicable)*.

Acknowledgement of Review of Papers and Duty of Candor

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of the subject matter claimed in this application in accordance with Title 37, Code of Federal Regulations § 1.56.

☐ In compliance with this duty there is attached an information disclosure statement. 37 CFR 1.98.

Priority Claim

I hereby claim foreign priority benefits under Title 35, United States Code, § 119(a)-(d) of any foreign application(s) for patent or inventor's certificate or of any PCT International Application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT International Application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application on which priority is claimed

(complete (d) or (e))

-) ☐ no such applications have been filed.
-) ☒ such applications have been filed as follows:

PRIOR FOREIGN/PCT APPLICATION(S) FILED WITHIN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO SAID APPLICATION			
COUNTRY	APPLICATION NO.	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)
			PRIORITY CLAIMED UNDER 35 USC 119 <input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
ALL FOREIGN APPLICATION(S), IF ANY, FILED MORE THAN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO SAID APPLICATION			
AUSTRALIA	PP5284	14/08/1998	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
AUSTRALIA	PCT/AU99/00665	16/08/1999	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO

Claim for Benefit of Prior U.S. Provisional Application(s)

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below:

Provisional Application Number	Filing Date

Claim for Benefit of Earlier U.S./PCT Application(s) under 35 U.S.C. 120

(complete this part only if this is a divisional, continuation or C-I-P application)

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) or PCT international application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior application(s) in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose information as defined in Title 37, Code of Federal Regulations, § 1.56 which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application:

Application Serial No.)	(Filing Date)	(Status) (patented, pending, abandoned)

Power of Attorney

I, a named inventor, I hereby appoint Dana M. Raymond, Reg. No. 18,540; Frederick C. Carver, Reg. No. 17,021; Francis J. Hone, Reg. No. 18,882; Joseph D. Garon, Reg. No. 20,420; Arthur S. Tenser, Reg. No. 18,839; Ronald B. Hildreth, Reg. No. 19,498; Thomas R. Esbitt, Jr., Reg. No. 22,075; Robert Neuner, Reg. No. 24,316; Richard G. Berkley, Reg. No. 25,465; Richard S. Clark, Reg. No. 26,154; Bradley B. Geist, Reg. No. 27,551; James J. Maune, Reg. No. 26,946; John D. Mumane, Reg. No. 29,836; Henry Tang, Reg. No. 29,705; Robert C. Scheinfeld, Reg. No. 31,300; John A. Fogarty, Jr., Reg. No. 22,348; Louis S. Sorell, Reg. No. 32,439 and Rochelle K. Seide, Reg. No. 32,300 of the firm of BAKER & BOTTS, L.L.P., with offices at 30 Rockefeller Plaza, New York, New York 10112, as attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith

SEND CORRESPONDENCE TO: <u>BAKER & BOTTS, L.L.P.</u> 30 ROCKEFELLER PLAZA, NEW YORK, N.Y. 10112 <u>CUSTOMER NUMBER: 21003</u>	DIRECT TELEPHONE CALLS TO: BAKER & BOTTS, L.L.P. (212) 705-5000
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I hereby declare that all statements made herein of my own knowledge are true and that all statements made in information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section

1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

FULL NAME OF SOLE OR FIRST INVENTOR	LAST NAME VAN SAARLOOS	FIRST NAME PAUL	MIDDLE NAME PHILLIP
RESIDENCE & CITIZENSHIP AUSTRALIA	CITY KARRINYUP	STATE or FOREIGN COUNTRY WESTERN AUSTRALIA	COUNTRY OF CITIZENSHIP NEW ZEALAND
POST OFFICE ADDRESS	POST OFFICE ADDRESS 14 DUNSTER STREET	CITY KARRINYUP	STATE or COUNTRY W.A
DATE	SIGNATURE OF INVENTOR		
FULL NAME OF SECOND JOINT INVENTOR, IF ANY	LAST NAME DISHLER	FIRST NAME JON	MIDDLE NAME
RESIDENCE & CITIZENSHIP UNITED STATES	CITY ENGELWOOD	STATE or FOREIGN COUNTRY COLORADO	COUNTRY OF CITIZENSHIP UNITED STATES
POST OFFICE ADDRESS DTC EYE SURGERY CENTRE, LASER INSTITUTE OF THE ROCKIES, SUITE 1200,	POST OFFICE ADDRESS 8400 EAST PRENTICE AVENUE	CITY ENGELWOOD	STATE or COUNTRY CO
DATE	SIGNATURE OF INVENTOR		
FULL NAME OF THIRD JOINT INVENTOR, IF ANY	LAST NAME	FIRST NAME	MIDDLE NAME
RESIDENCE & CITIZENSHIP	CITY	STATE or FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE or COUNTRY
DATE	SIGNATURE OF INVENTOR		
FULL NAME OF FOURTH JOINT INVENTOR, IF ANY	LAST NAME	FIRST NAME	MIDDLE NAME
RESIDENCE & CITIZENSHIP	CITY	STATE or FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE or COUNTRY
DATE	SIGNATURE OF INVENTOR		
FULL NAME OF FIFTH JOINT INVENTOR, IF ANY	LAST NAME	FIRST NAME	MIDDLE NAME
RESIDENCE & CITIZENSHIP	CITY	STATE or FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE or COUNTRY
DATE	SIGNATURE OF INVENTOR		
FULL NAME OF SIXTH JOINT INVENTOR, IF ANY	LAST NAME	FIRST NAME	MIDDLE NAME
RESIDENCE & CITIZENSHIP	CITY	STATE or FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE or COUNTRY
DATE	SIGNATURE OF INVENTOR		

FULL NAME OF SEVENTH JOINT INVENTOR, IF ANY	LAST NAME	FIRST NAME	MIDDLE NAME
RESIDENCE & CITIZENSHIP	CITY	STATE or FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE or COUNTRY
DATE	SIGNATURE OF INVENTOR		

Check proper box(es) for any added page(s) forming a part of this declaration

- ☐ Signature for ninth and subsequent joint inventors. Number of pages added _____.
- ☐ Signature by administrator(trix), executor(trix) or legal representative for deceased or incapacitated inventor.
Number of pages added _____.
- ☐ Signature for inventor who refuses to sign, or cannot be reached, by person authorized under 37 CFR 1.47.
Number of pages added _____.

ADDED PAGES TO COMBINED DECLARATION AND POWER OF ATTORNEY FOR
SIGNATURE BY PERSON WITH SUFFICIENT PROPRIETARY INTEREST WHERE NO
INVENTOR IS AVAILABLE TO SIGN AND ON BEHALF OF THE INVENTOR WHO
REFUSES TO SIGN OR CANNOT BE REACHED.

(37 C.F.R. §1.47(b))

I, Simon Charles Martin, hereby declare that:

1-11 1. I am a citizen of the United Kingdom residing at 8 Traylen Grove, Mt Claremont,

Western Australia, 6010, Australia. *AKA*

2. I am authorized by the following person or juristic entity with sufficient
proprietary interest,

Q-Vis Limited
6 Gould Street
Herdsman, Western Australia 6017

3. By virtue of this proprietary interest, I sign this declaration on behalf of, and as
agent for, Paul Philip Van Saarloos and Jon Dishler, nonsigning inventors who refused to sign.

New Zealand

Country of Citizenship of nonsigning inventor Paul Phillip Van Saarloos

14 Dunster Street, Karrinyup, Western Australia 6018

Last known address of nonsigning inventor Paul Phillip Van Saarloos

United States

Country of Citizenship of nonsigning inventor Jon Dishler

DTC Eye Surgery Centre, Laser Institute of the Rockies, Suite 1200, 8400 East
Prentice Avenue, Engelwood, CO 80111

Last known address of nonsigning inventor Jon Dishler

4. Upon information and belief, I aver those facts that the inventor is required to state, 37C.F.R. §1.64(b).

5. Accompanying this declaration are:

(1) a Statement by Person Signing on Behalf of Nonsigning Inventors Establishing Proprietary Interest; and

(2) a Statement of Facts in Support of Filing on Behalf of Nonsigning Inventors to establish the proof of pertinent facts, and to show that such action is necessary to preserve the rights of the parties and to prevent irreparable damage.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that wilful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such wilful false statements may jeopardise the validity of the application or any patent issued therein.

Date: 14 November 2001



Simon Charles Martin